

§ 73.735–1001

be deemed likely to affect the integrity of the services which the Government may expect from such employee; or

(2) By general rule or regulation published in the FEDERAL REGISTER, the Department has exempted the financial interest from the requirements of 18 U.S.C. 208 and this part as being too remote or too inconsequential to affect the integrity of the Government officers' service.

(d) A *trust* containing a financial interest which may give rise to an apparent or actual conflict of interest is an appropriate method of resolving such conflicts when:

(1) The trust is qualified under section 202(f) of the Ethics in Government Act of 1978 (Pub. L. 95–521), as amended, and subject to the regulations of the Office of Government Ethics; or

(2) In the opinion of the Department's Ethics Counselor, it is sufficiently independent of the employee involved so that the integrity of the employee's services to the Government are not compromised.

(e) *Divestiture* is an appropriate method for resolving actual conflicts of interest when the nature of the financial interest is such that the conflict of interest cannot be adequately resolved by any of the methods set forth in paragraphs (a), (b), (c), and (d) of this section.

(f) *Terminating* an appointment as a method for resolving an actual conflict of interest should be used only when it is clear that no other remedy can be found which would be acceptable to both the Department and the employee. Generally, this method will be employed only in the most extreme cases. Such a termination would be subject to adverse action.

Subpart J—Provisions Relating to Experts, Consultants and Advisory Committee Members

§ 73.735–1001 Coverage.

(a) For purposes of this subpart the title “consultant” will be used to include those who are appointed to serve as experts, consultants or members of advisory committees. All persons who serve as an employee of the Government in the capacity of a consultant

45 CFR Subtitle A (10–1–08 Edition)

are covered by the provisions of this subpart irrespective of:

(1) The title by which designated;

(2) The statutory authority under which services are obtained;

(3) The duration of the period for which services are obtained;

(4) Whether services are obtained by appointment or invitation and acceptance;

(5) Whether services are compensated or rendered without compensation;

(6) Whether or not services are obtained pursuant to a statute excepting employees or special Government employees from conflict of interest statutes.

(b) When the service is for less than 130 days in a service year, experts, consultants, and advisory committee members are included in the group of employees designated by law (18 U.S.C. 202) as “Special Government employees.”

§ 73.735–1002 Ethical standards of conduct.

(a) Like other Federal employees, an individual serving in a consultant capacity must conduct himself or herself according to ethical behavior standards of the highest order. In particular, such an individual must:

(1) Refrain from any use of office which is, or appears to be, motivated by a private gain for himself or herself or other persons, particularly those with whom he or she has family, business, or financial ties. The fact that desired gain, if it materializes, will not take place at the expense of the Government makes his or her actions no less improper.

(2) Conduct himself or herself in a manner devoid of any suggestion that he or she is exploiting Government employment for private advantage. A consultant must not, on the basis of any inside information, enter into any speculation or recommend speculation to members of his or her family or business associates, in commodities, land, or the securities of any private company. This injunction applies even though the consultant's duties have no connection whatever with the Government programs or activities which may affect the value of such commodities, land, or securities. He or she should be